

PROGRAM CHARTER

FOR

Habitat

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1. EXECUTIVE SUMMARY

Coastal, marine and Great Lakes habitats, including rivers and estuaries, are an indispensable part of our Nation's natural resources and sustain a significant portion of the United States economy. These habitats are components of complex ecosystems beginning inland at the headwaters of streams and extending seaward. The health of these habitats is dependent on the quality of the ecosystem's physical and chemical processes and associated biological communities. The degradation and loss of these habitats affects the viability of important natural resources valued by the Nation.

NOAA's Habitat Program, in collaboration with the other Ecosystem Goal Team programs, protects and restores habitats that support NOAA trust resources* and are essential to the long-term health and sustainability of coastal and marine ecosystems. The Habitat Program applies the latest science and technology to ensure that ecosystem productivity, function, and services are protected and restored utilizing a variety of strategies and measures authorized by dozens of legislative and executive mandates. The Habitat Program promotes sound stewardship by engaging partners (i.e. federal, state and local agencies, as well as stakeholders) to leverage additional capabilities that ensure long-term habitat stewardship and sustainability. To fulfill its mandates, the Program brings together resources and expertise from 10 core NOAA programs (i.e. Chesapeake Bay Program; Community-based Restoration Program; Coastal Wetlands Planning, Protection and Restoration Act Program; Damage Assessment, Remediation and Restoration Program; Essential Fish Habitat Program; Estuary Restoration Act Program; Invasive Species Program; Hydropower Program; Wetlands Protection; and Marine Debris Program) within three Line Offices (NOAA's National Ocean Service, NOAA's National Marine Fisheries Service and NOAA's Oceanic and Atmospheric Research), as well as 17 collaborating NOAA programs.

The Program strives to fully realize the U.S. Ocean Action Plan and NOAA Strategic Plan's mission goal to protect, restore and manage the use of coastal and ocean resources through an ecosystem approach to management.

* NOAA is a trustee for resources associated with coastal, marine and Great Lakes habitats, including rivers and estuaries. These include: commercial and recreational fishery resources; diadromous species; marine mammals; endangered and threatened marine species and their habitats; marshes, mangroves, seagrass beds, coral reefs, and other coastal habitats; and resources associated with National Marine Sanctuaries and National Estuarine Research Reserves.

Program URLs:

<http://habitat.noaa.gov/>

<http://www.nmfs.noaa.gov/habitat/habitatprotection/>

<http://era.noaa.gov/>

<http://www.darrp.noaa.gov/>

<http://response.restoration.noaa.gov/>

<http://noaa.chesapeakebay.net/>

<http://www.nmfs.noaa.gov/habitat/restoration>

<http://marinedebris.noaa.gov>

2. PROGRAM REQUIREMENTS

A. Requirement Drivers: The following is a list of the Habitat Program's primary drivers. A list of secondary drivers follows in the Appendix.

- 1) Atlantic Coastal Fishery Cooperative Management Act (ACFCM): The Atlantic Coastal Fisheries Act provides a mechanism to ensure Atlantic coastal state compliance with mandated conservation measures in Atlantic States Marine Fisheries Commission-approved fishery management plans. Under the Act, the National Marine Fisheries Service (NMFS) and the U.S. Fish and Wildlife Service are responsible for supporting the Commission's Interstate Fisheries Management Program. These responsibilities are met through project grants, which support and enhance state cooperation in data collection, law enforcement, habitat conservation, fishery research including biological, social, and economic research, and fishery management planning.
- 2) Clean Water Act (CWA): The Act establishes the basic structure for maintaining and restoring waters of the United States, including coastal wetlands. The Act authorizes water quality and pollution research, provides grants for sewage treatment facilities, sets water quality and pollution standards, and establishes permit programs for water quality, point source pollution discharge, ocean pollution discharge, and dredging and filling in wetlands. The Act provides NOAA authority to comment on § 404 permit applications (concerning the discharge of dredged materials into navigable waters), in conjunction with authority under the Fish and Wildlife Coordination Act (FWCA), for the purpose of avoiding, minimizing, and mitigating the destruction and degradation of aquatic resources. In addition, the Act (33 U.S.C. § 1321 (f)(5)) mandates that NOAA seek (pursuant to delegated authority) damages to restore natural resources injured as a result of the discharge of oil or hazardous substances.
- 3) Coastal Wetlands Planning, Protection, and Restoration Act (CWPPRA): The Coastal Wetlands Planning, Protection and Restoration Act (CWPPRA or Breaux Act) authorizes critical funding and support for the restoration, protection, conservation and enhancement of threatened wetlands in the Louisiana coastal zone. Under the Breaux Act, NMFS and other participating federal and state agencies are required to plan and implement large-scale coastal wetlands restoration projects that are significant on a local and national level. In 2004, Congress reauthorized the funding for the CWPPRA program through 2019.
- 4) Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA): The Act authorizes the President to act on behalf of the public as trustee for natural resources regarding the release or threatened release of hazardous substances in the environment. This authority has been delegated to NOAA for resources for which the agency has management or protective responsibilities. As such, the Act requires NOAA to seek damages on behalf of the public to restore natural resources within the scope of its trusteeship that are injured by the release of hazardous materials.
- 5) Coral Reef Conservation Act of 2000 (CRCA): The Coral Reef Conservation Act of 2000 gives the Secretary of Commerce through NOAA responsibility to conserve coral reef ecosystems. The Act authorizes NOAA to conduct and support coral reef conservation activities consistent with the Act, the Magnuson-Stevens Fishery Conservation and Management Act (MSA), and other federal laws. The Habitat Program works with the NOAA Coral Reef Conservation Program to implement

these activities. For example, NMFS activities include reviewing Federal and state actions that may adversely impact coral, providing conservation recommendations to further the conservation and enhancement of coral, and restoring coral reef habitat. The CRCA also authorizes providing assistance to states in removing abandoned fishing gear, marine debris, and abandoned vessels from coral reefs to conserve living marine resources.

- 6) Deepwater Port Act of 2002 (DPA): The 2002 Deepwater Port Act establishes a licensing system for ownership, construction, operation and decommissioning of deepwater port structures located beyond the U.S. territorial sea and authorizes the Coast Guard to license these facilities. Tight timelines for the environmental review process mandated in the Act have forced NMFS staff to provide a more intense level of interaction than would otherwise be necessary. Additionally, NMFS reviews new technologies and their impacts to ecosystems important to NMFS trust species with new federal partners with little or no background in Habitat protection mandates. Passage of this act has spurred growth in the development of Liquefied Natural Gas (LNG) facilities. Since the passage of the Act, NMFS has participated in the review of at least 13 offshore and 28 onshore LNG facilities.
- 7) The Energy Independence and Security Act of 2007 (EISA): The Energy Independence and Security Act of 2007 instructs NOAA to work with the Department of Energy regarding the potential environmental impacts, including impacts to fisheries and marine resources, of marine and hydrokinetic renewable energy technologies. The term 'marine and hydrokinetic renewable energy' means electrical energy from: waves, tides, and currents in oceans, estuaries, and tidal areas; free flowing water in rivers, lakes, and streams; free flowing water in man-made channels; and differentials in ocean temperature (ocean thermal energy conversion). It does not include energy from any source that uses a dam, diversionary structure, or impoundment for electric power purposes.
- 8) Energy Policy Act of 2005 (EPAct): Passage of EPAct resulted in changes to existing NOAA Fisheries procedures for reviewing hydropower licensing projects as mandated under the Federal Power Act. It requires the Departments of Commerce, the Interior, and Agriculture to conduct trial-type hearings for disputed issues of material fact raised by the permit applicant or other parties involved in the project concerning the Departments' Federal Power Act prescriptions and conditions. It also requires the Departments to analyze effects of prescriptions, conditions and all submitted alternatives on non-resource related issues (e.g., energy supply, flood control, air quality). EPAct also amended the Outer Continental Shelf (OCS) Lands Act to authorize the Secretary of the Interior to grant leases, easements or rights-of-way for alternative energy-related uses on the OCS of the United States. The Department of the Interior's Minerals Management Service is preparing a programmatic environmental impact statement for the implementation of this new authority, under which they are required to ensure the protection of the environment, conservation of natural resources of the OCS, and coordination with relevant Federal agencies, including NOAA.
- 9) Estuary Restoration Act of 2000 (ERA): The Act establishes an interagency Council, including NOAA, U.S. Fish and Wildlife Service, Environmental Protection Agency, USDA/Natural Resources Conservation Service (NRCS) and Army, to promote the restoration of estuary habitat, to develop a national strategy for coordination among public agencies and between the public and private sectors, to provide financial and technical assistance for restoration projects, and to develop enhanced monitoring and research capabilities. In addition, NOAA is specifically assigned monitoring and data coordination responsibilities under the Act, including the development and maintenance of a national inventory of restoration projects.

- 10) The Estuary Restoration Act was modified via amendments to the Water Resources Development Act of 2007 (WRDA). The most significant amendment to the ERA is the authorization of \$2.5 million each to the Under Secretary of Oceans for the Department of Commerce, Secretary of Interior, Administrator of the Environmental Protection Agency, and Secretary of Agriculture for purposes of estuarine habitat restoration. The Secretary of the Army is authorized to receive \$25 million for estuary habitat restoration projects. Other amendments to the ERA include: allowing the use of cooperative agreements to promote efficient financing of projects; allowing the cost of monitoring a restoration project funded under this title to be included in the total cost of the project; and redefining a "small" project as anything with a cost less than \$1 million. The goal of the ERA is to encourage the restoration of estuary habitat through more efficient project financing and enhanced coordination of Federal and non-Federal restoration programs.
- 11) Federal Power Act (FPA): Under the Federal Power Act, the Federal Energy Regulatory Commission (FERC) has the exclusive authority to license non-Federal hydropower projects on navigable waterways and Federal lands. FERC also uses its FPA authority to exercise jurisdiction over alternative, or hydrokinetic (wave, tidal, current), ocean energy development projects through the issuance of preliminary permits for pre-licensing activities in coastal and offshore waters. Unprecedented increases in energy costs have stimulated numerous alternative ocean energy proposals, including over thirty preliminary permit applications to FERC in 2006 alone. FPA grants NMFS the authority to prescribe fishways and propose conservation measures to address any adverse effects to fish and wildlife resources at hydropower projects licensed by FERC.
- 12) Fish and Wildlife Coordination Act (FWCA): FWCA, as amended in 1964, requires that all Federal agencies consult with the NMFS, U.S. Fish and Wildlife Service, and State wildlife agencies when proposed actions may result in modification of a natural stream or body of water. Federal agencies must consider effects that these projects would have on fish and wildlife resources, take action to prevent loss or damage to these resources, and provide for the development and improvement of these resources. The FWCA allows the NMFS to provide comments to the U.S. Army Corps of Engineers during review of projects under § 404 of the Clean Water Act (concerning the discharge of dredged materials into navigable waters) and § 10 of the Rivers and Harbors Act of 1899 (obstructions in navigable waterways). NMFS comments provided under FWCA are intended to reduce environmental impacts to anadromous, estuarine, and marine fisheries and their habitats.
- 13) Magnuson-Stevens Fishery Conservation and Management Act (MSA): The MSA provides for the conservation and management of the Nation's fishery resources through the preparation and implementation of fishery management plans (FMPs). The MSA calls for NMFS to work with regional Fishery Management Councils to develop FMPs for each fishery under their jurisdiction. One of the required provisions of FMPs specifies that essential fish habitat (EFH) be identified and described for the fishery, adverse fishing impacts on EFH be minimized to the extent practicable, and other actions to conserve and enhance EFH be identified. The MSA also mandates that NMFS coordinate with, and provide information to, Federal agencies to further the conservation and enhancement of EFH. Federal agencies must consult with NMFS on any action that may adversely affect EFH. When NMFS finds that a Federal or state action would adversely affect EFH, it is required to provide conservation recommendations. The Magnuson-Stevens Fishery Conservation and Management Reauthorization Act of 2006 authorizes the Community-based Restoration Program to implement and support the restoration of fishery and coastal habitats by providing Federal financial and technical assistance to encourage locally led coastal and marine habitat restoration, and to promote

stewardship and conservation values for NOAA trust resources. This Act also authorizes NOAA to update scientific information and protocols needed to improve restoration techniques for a variety of coast habitat types, and synthesize the results in a format easily understandable by restoration practitioners and local communities.

- 14) Marine Debris Research, Prevention, and Reduction Act (MDRPRA): The Marine Debris Research, Prevention, and Reduction Act (Act) is a mandate for a NOAA Marine Debris Program (MDP) to coordinate and implement specific prevention, restoration, and research activities. These activities include quantifying economic impacts of marine debris, developing priorities for debris removal, reducing fishing gear loss, and developing a Federal information clearinghouse. The Act also re-structured the Interagency Marine Debris Coordinating Committee (IMDCC), which was one of 88 actions listed in the U.S. Ocean Action Plan. The Act addresses needs identified by the U.S. Commission on Ocean Policy's report, which included marine debris as a critical issue and listed NOAA as the lead for five of six marine debris-related recommendations within the report.
- 15) National Environmental Policy Act (NEPA): The Act requires that all Federal agencies prepare detailed environmental impact statements for all major Federal actions significantly affecting the quality of the human environment. Under the Act, NOAA comments on actions by other Federal agencies to address possible harm to NOAA trust resources. NOAA also prepares NEPA documents for its activities that may affect the environment.
- 16) National Marine Sanctuaries Act (NMSA): The NMSA authorizes the Secretary of Commerce to act as a trustee for sanctuary resources, to conduct response actions, and to recover damages to sanctuary resources within National Marine Sanctuaries. NOAA has been delegated this trustee authority.
- 17) NOAA Authorization Act of 1992 (§307) and NOAA Re-Authorization Act of 2002 (§401): Among other activities, NOAA Chesapeake Bay Office (NCBO) is tasked with a number of functions to aid in research or resource management efforts in the Chesapeake Bay that address requirements of the Habitat Program, including: (a) assessing the processes that shape the Chesapeake Bay system and affect its living resources; (b) identifying technical and management alternatives for the restoration and protection of living resources and the habitats they depend upon; (c) monitoring the implementation and effectiveness of management plans, and (d) carrying out a community-based fishery and habitat restoration small grants program in the Chesapeake Bay watershed.
- 18) Nonindigenous Aquatic Nuisance Prevention and Control Act of 1990, as amended by NISA (NANPCA): The Act amends the Non-indigenous Aquatic Nuisance Prevention and Control Act of 1990 and charges NOAA with invasive species prevention, detection, monitoring, control and restoration activities. It directs NOAA to co-chair a national aquatic nuisance species task force, which will coordinate activities among Federal agencies and between Federal agencies, regional, State, tribal and local organizations involved in carrying out the Act. The Act also instructs NOAA and FWS to undertake development of technologies and practices that may prevent introduction and spread of non-indigenous species through ballast water discharge.
- 19) Oil Pollution Act of 1990 (OPA): The OPA authorizes the President to act as a trustee for natural resources and recover damages to natural resources for the discharge or threatened discharge of oil into navigable waters or adjoining shorelines. NOAA has been delegated this trustee authority with respect to natural resources for which the agency has management or protective responsibilities.
- 20) 2005 Safe, Accountable, Flexible, Efficient Transportation Equity Act: a Legacy for

Users (SAFETEA-LEU): The SAFETEA-LU provides guaranteed funding for highways, highway safety, and public transportation. The Act contains a host of provisions designed to improve and maintain the transportation infrastructure in the United States, especially the highway and interstate road system. Several sections may apply to NMFS Office of Habitat Conservation activities and workloads. Section 1805 specifies that any material resulting from the demolition of certain types of bridges should make that material available for beneficial uses such as shore erosion control or stabilization, ecosystem restoration, and marine habitat creation. Section 6002 specifies new oversight and dispute resolution processes for all environmental reviews including a 180-day deadline for completing all decisions “under any Federal law relating to” a transportation project. Section 6005 authorizes DOT to establish a pilot program to delegate federal environmental reviews in five states. This program will require NMFS to conduct a new outreach and education program with at least Alaska, Texas, and California about the existence and execution of NMFS environmental review requirements.

Additional Guidance:

- 21) Chesapeake Bay 2000 Agreement: NOAA is responsible for assisting in meeting the commitments outlined in the Chesapeake 2000 Agreement, the most recent compact between Chesapeake Bay program partners. NOAA has lead responsibility for four of the “keystone commitments” in that agreement covering oysters, multi-species management, submerged aquatic vegetation; and education and outreach.
- 22) Executive Order 13112 (EO 13112)– Invasive Species: The Order establishes the National Invasive Species Council, of which NOAA is co-chair, and directs Federal Agencies to prevent the introduction of invasive species, provide for their control and minimize the economic, ecological, and human health impacts that invasive species cause. Agencies are mandated to: (i) prevent the introduction of invasive species; (ii) detect and respond rapidly to and control populations of such species in a cost-effective and environmentally sound manner; (iii) monitor invasive species populations accurately and reliably; (iv) provide for restoration of native species and habitat conditions in ecosystems that have been invaded; (v) conduct research on invasive species and develop technologies to prevent introduction and provide for environmentally sound control of invasive species; and (vi) promote public education on invasive species and the means to address them.
- 23) Executive Order on Great Lakes Restoration (May 18, 2004): The Order established a Great Lakes Interagency Task Force to address environmental and natural resource issues of national concern and better coordinate the region’s sustainable development and restoration. Comprised of ten U.S. Cabinet and Agency heads (including the Secretary of Commerce), the Task Force focuses on outcomes such as cleaner water and sustainable fisheries, and targets measurable results. Together, the ten agencies administer more than 140 federal programs that fund and manage restoration efforts; NOAA’s Habitat Program is one of these programs.
- 24) Memoranda of Understanding (MOU) and multi-agency agreements: The Habitat Program represents NOAA in permitting processes that are outlined in a range of MOU’s that relate to specific mandates assigned to other agencies. For example, the Deepwater Port Act of 1974, as amended by the Maritime Transportation Security Act of 2002, establishes a licensing system for ownership, construction, operation and decommissioning of deepwater port structures (e.g., liquefied natural gas terminals) located beyond the U.S. territorial sea. The Habitat Program’s involvement requires significant investment of NOAA resources (e.g., habitat impact assessment, research and project analyses). Additionally, the Habitat Program

represents NOAA in multi-agency agreements that outline specific protection and restoration commitments to be implemented by NOAA (e.g., Chesapeake 2000 (C2K) Agreement).

- 25) President Bush's Earth Day Announcement (April 22, 2004): On Earth Day 2004, the President announced an aggressive new national goal - moving beyond a policy of "no-net-loss" of wetlands - to restore, improve, and protect at least 3 million wetland acres over the next 5 years in order to increase overall wetland acres and quality. The NOAA Habitat Program is a contributor to the national wetland restoration target.
- 26) U.S. Commission on Ocean Policy Report and U.S. Ocean Action Plan:
- 27) The U.S. Ocean Action Plan outlines the current Administration's response to the U.S. Commission on Ocean Policy report. It identifies immediate short-term actions that provide direction for ocean, coastal and Great Lakes policy, and also outlines long-term actions for the future. The Plan states, "The continued health and biodiversity of marine and estuarine systems depends on the maintenance of high-quality habitat. The same areas that often attract human development also provide essential food, cover, migratory corridors, and breeding/nursery areas for a broad array of coastal and marine organisms. Habitat loss and degradation are key issues facing coasts and estuaries around the country"(U.S. Ocean Action Plan, December 17, 2004, page 28). The NOAA Habitat Program is implementing new initiatives and building on the successes of many existing programs in the areas of coastal and watershed management, conservation and restoration of coastal habitat, and prevention and control of invasive species.

B. Mission Requirements:

- 1) Conserve and manage fish populations based on sound science, which include protecting, rebuilding, restoring and maintaining fishery resources and the habitats that sustain them. (MSA, CWPPRA, MDRPRA, ACFCM, ERA, CWA, CRCA)
- 2) Protect habitats that support NOAA trust resources, which include the prevention and control of aquatic invasive species. (MSA, NANPCA, FPA, FWCA, MDRPRA, DPA, EPAAct, NEPA, SAFETEA-LEU, EISA, CRCA)
- 3) Assess natural resource damages from oil spills and hazardous material releases, coordinate with the lead cleanup agency to ensure that cleanup actions are protective of NOAA trust resources, recover damages from those responsible for the release, and use the damages to restore, replace, or acquire the equivalent of the natural resources harmed by the oil spill or hazardous release. (CERCLA, OPA, NMSA)
- 4) Provide NOAA constituents with technical guidance, tools, financial assistance and partnership opportunities to support long-term stewardship of the Nation's ocean, coastal and Great Lakes ecosystems and resources and improve public understanding of these ecosystems. (MSA, NOAA Re-Authorization Act of 2002, MDRPRA)

3. LINKS TO THE NOAA STRATEGIC PLAN

A. Ecosystem Goal

- 1) Ecosystem Goal outcomes:
 - a) Healthy and productive coastal and marine ecosystems that benefit society.
 - b) A well-informed public that acts as a steward of coastal and marine ecosystems.
- 2) Ecosystem Goal Performance Objectives:

- a) Increase number of ocean, coastal, and Great Lakes habitat acres restored;
- b) Increase the stream miles made accessible for ocean, coastal, and Great Lakes resources;
- c) Increase number of invasive species detected early enough to consider rapid response;
- d) Increase portion of population that is knowledgeable of and acting as stewards for coastal and marine ecosystem issues;
- e) Increase number of coastal communities incorporating ecosystem and sustainable development principles into planning and development.
- f) Increase number of regional coastal and marine ecosystems delineated with approved indicators of ecological health and socioeconomic benefits that are monitored and understood.

3) Ecosystem Goal Strategies:

- a) Engage and collaborate with our partners to achieve regional objectives by delineating regional ecosystems, promoting partnerships at the ecosystem level, and implementing cooperative strategies to improve regional ecosystem health.
- b) Manage uses of ecosystems by applying scientifically sound observations, assessments, and research findings to ensure the sustainable use of resources and to balance competing uses of coastal and marine ecosystems.
- c) Improve resource management by advancing our understanding of ecosystems through better simulation and predictive models. Build and advance the capabilities of an ecological component of the NOAA global environmental observing system to monitor, assess, and predict national and regional ecosystem health, as well as to gather information consistent with established social and economic indicators.
- d) Develop coordinated regional and national outreach and education efforts to improve public understanding and involvement in stewardship of coastal and marine ecosystems.
- e) Engage in technological and scientific exchange with our domestic and international partners to protect, restore, and manage marine resources within and beyond the Nation's borders.

B. Commerce and Transportation Goal

1) Commerce and Transportation Goal Outcome:

- a) Environmentally sound development and use of the U.S. transportation system.
- b) Safe, secure, efficient, and seamless movement of goods and people in the U.S. transportation system.

2) Commerce and Transportation Performance Objective:

- a) Reduce human risk, environmental, and economic consequences resulting from natural or human induced emergencies.

3) Commerce and Transportation Goal Strategies:

- a) Develop and implement sophisticated assessment and prediction techniques, products, and services to support decisions on aviation, marine, and surface navigation efficiencies; coastal resource management; and transportation system management, operations, and planning.

- b) Build public understanding of the science and technology involved and the role of the environment in commerce and transportation through outreach, education, and industry collaboration.

4. PROGRAM OUTCOMES

- A. Improve the health and productivity of coastal, marine and Great Lakes ecosystems including their rivers and estuaries, with the aim of providing benefits to NOAA trust resources, the public and coastal communities based on sound science, by means of:
- B. Increased protection and conservation of habitats that support NOAA trust resources and support ecosystem health and production.
- C. Increased restoration of habitats that support NOAA trust resources to enhance the recovery of ecosystem health and production.
- D. Increased public awareness and stewardship of habitats that support NOAA trust resources through the involvement of stakeholders and enhancement of partnerships.

5. PROGRAM ROLES AND RESPONSIBILITIES: The Habitat Program is established and managed with the procedures established in the NOAA Business Operations Manual (BOM). Responsibilities of the Program Manager are described in the BOM. Responsibilities of other major participants are summarized below:

A. Participating Line Office, Staff Office, and Council Responsibilities:

- 1) NOAA's National Marine Fisheries Service (NMFS) is responsible for managing, conserving and enhancing habitats for fishery resources, protected species and other living marine resources. The Office of Habitat Conservation and twelve Fisheries Regional Offices and Regional Science Centers are instrumental in contributing to program outcomes and capabilities nationwide. NMFS develops and implements plans to mitigate impacts or recover injured or lost resources and implements monitoring plans to evaluate progress. NMFS provides information, training and tools for successful design, implementation, and monitoring of protection and restoration projects. It also provides technical guidance and assistance, in the form of policies, guidance and conservation recommendations, to federal action agencies or other NOAA partners when their proposed actions may adversely affect living marine resources and their habitats.
- 2) NOAA's National Ocean Service (NOS) is responsible for supporting NOAA's role as a natural resource trustee by assessing natural resource damages and identifying potential injury to coastal resources, recommending cleanup strategies that protect habitat and wildlife, recovering compensation to restore injured resources and lost services, and preventing and reducing impacts to natural resources from marine debris. NOS provides information, training and tools for successful design, implementation, and monitoring of restoration projects.
- 3) NOAA's Oceanic and Atmospheric Research (OAR) line office is responsible for the research and development of environmental products and services that protect life and property and promote sustainable economic growth. Within OAR, the Sea Grant program is administered. The National Sea Grant College Program engages a network of the Nation's top universities in conducting scientific research, education, training, and extension projects designed to foster science-based decisions about the use and conservation of our aquatic resources.
- 4) NOAA's General Counsel (GC) is responsible for all legal matters associated with NOAA's natural fisheries protection and resource trusteeship, including: providing legal assistance; providing legal recommendations for NOAA positions in negotiations; representing NOAA during negotiations; presenting NOAA positions and claims (based on technical work by NOS and NMFS) to the Department of

Justice (DOJ) concerning litigation issues; etc.

- 5) NOAA's Ocean Council serves as the principal advisory body to the Administrator and focal point for the agency's ocean activities and interests. Ocean activities include open ocean, nearshore, coastal and estuarine, and the Great Lakes. The purposes of the Council are defined in its Terms of Reference and include: coordinating ocean activities across NOAA; proposing priorities and investment strategies for ocean-related initiatives; identifying ocean and coastal programs that might benefit most from integration; and coordinating NOAA's participation in the interagency National Oceanographic Partnership Program (NOPP).
- 6) NOAA's Research Council provides corporate oversight and develops policy to ensure that NOAA research activities are of the highest scientific quality, meet long-range societal needs, take advantage of emerging scientific and technological opportunities, shape a forward-looking research agenda, and are accomplished in an efficient and cost effective manner. The Mission of the NOAA Research Council is to ensure that all NOAA services are based on sound science and that all NOAA research programs and long term plans are consistent with the NOAA Mission, NOAA Strategic Plan and recommendations contained in National Research Council and NOAA Science Advisory Board (SAB) research reviews.
- 7) NOAA's Education Council is the primary forum for discussing ideas and proposals for NOAA's education activities and priorities. In conjunction with NOAA's Office of Education and Sustainable Development, the Council develops and monitors the implementation of NOAA's Strategic Plan for Education and makes recommendations to NOAA management on all aspects of NOAA's educational activities.
- 8) NOAA's Observing Systems Council is the principal advisory body to the Under Secretary for NOAA's Earth observation and environmental observation-related data management (end-to-end collection, processing, storage, archiving, accessing, and disseminating) activities. It also serves as NOAA's principal coordinating body to the White House Committee on Environment and Natural Resources (CENR) Subcommittee on Earth Observations.

B. External Agency/Organization Responsibilities

- 1) Department of Agriculture - Natural Resources Conservation Service -
 - a) CERCLA, OPA, NCP – Acts as trustee for natural resources for which the agency has management or protective responsibilities
 - b) CWA – Swampbusters, Wetland Protection
 - c) CWPRA, ERA, Great Lakes EO – Restoration
 - d) FPA – Anadromous Fish Conservation
- 2) Department of Defense -
 - a) NCP, CERCLA, OPA, CWA, - Acts as trustee for natural resources for which the agency has management or protective responsibilities
 - b) Army Corps of Engineers (ACOE)
 - c) CWA, FWCA – Wetlands, permitting authority for 404 permit applications.
 - d) CWPRA, ERA, Great Lakes EO – Restoration
 - e) MSA – Fish Habitat
- 3) Department of the Interior -

- a) NCP, CERCLA, OPA, CWA – Acts as trustee for natural resources for which the agency has management or protective responsibilities
- b) Executive Order 13112 on Invasive Species – Co-chairs the national Invasive Species Council
- c) US Fish & Wildlife Service
- d) CWA, FWCA – Wetlands, comments on 404 permit applications
- e) CWPRA, ERA, Great Lakes EO – Restoration
- f) FPA – Anadromous Fish Conservation
- g) ESA – Endangered Species Conservation
- h) NISA – Co-chair Aquatic Nuisance Species Task Force with NOAA
- 4) Department of Energy –
 - a) NCP, CERCLA, OPA, CWA – Acts as trustee for natural resources for which the agency has management or protective responsibilities
 - b) Federal Energy Regulatory Commission -
 - c) Natural Gas Act, FPA – Licensing of gas, hydropower, LNG in state waters. This process includes evaluating environmental and habitat impacts.
- 5) Department of Transportation -
 - a) Federal Maritime Administration - licensing authority under Deepwater Ports Act, including evaluation of habitat impacts.
- 6) Department of Homeland Security - US Coast Guard –
 - a) NISA – Regulates ballast water discharges, which impacts the spread of invasive species.
 - b) Deepwater Ports Act – Conducts environmental reviews of offshore liquefied natural gas facilities
 - c) NCP, OPA – Response agency for oil spills or threats of release in coastal and marine area
 - d) MRRPRA – Implements MARPOL and other marine debris reduction/prevention activities
- 7) Environmental Protection Agency - Lead cleanup agency for notifying and working with the co-trustee agencies to ensure that all agencies' investigations are coordinated and address their responsibilities for protection and restoration of trust resources affected by hazardous substance releases. EPA is also the lead agency on wetland and waterway regulations affecting nearly all NOAA trust resources. EPA serves as co-chair, with NOAA, of the Interagency Marine Debris Coordinating Committee. The Chesapeake Bay Program, a regional partnership, dedicated to the restoration of the Chesapeake Bay. Led by EPA (representing the federal government), partners include other federal agencies; Maryland, Pennsylvania and Virginia; the District of Columbia; the Chesapeake Bay Commission (a tri-state legislative body); and participating citizen advisory groups.
 - a) NCP, CERCLA, OPA, CWA - Power plants, permitted discharges, water quality
 - b) ERA, Great Lakes EO – Restoration
 - c) MSA – Essential Fish Habitat

- d) MDRPRA – Land-based debris
- 8) States and Tribes -
 - a) NCP, CERCLA, OPA, CWA – Serve as response agency and act as natural resource trustee of resources managed and owned
 - b) CWA, FWCA - Comment on 404 permit applications and provide 401 certifications
 - c) CZMA – Federal consistency with state Coastal Zone Management (CZM) programs
 - d) CWPRA – Conservation and enhancement of threatened wetlands in the State of Louisiana coastal zone
- 9) National Fish Habitat Initiative – The National Fish Habitat Initiative is a nationwide action plan that harnesses the energies, expertise and existing partnerships of state and federal agencies and conservation organizations to improve aquatic habitat health.
- 10) White House Conference on Cooperative Conservation – In August 2004 President Bush issued Executive Order #13352 that calls upon the Departments of Agriculture, Commerce, Defense, the Interior, and the Environmental Protection Agency to implement laws relating to the environment and natural resources in a manner that promotes cooperative conservation, with an emphasis on local inclusion. To facilitate achievement of this goal, the Order calls for a Conference on Cooperative Conservation that was convened in August 2005. The Conference provided a forum for leaders in the field of cooperative conservation to exchange information and advice while developing innovative and effective approaches to promoting cooperative conservation.
- 11) Coastal America – Coastal America is a unique partnership of federal agencies, state and local governments, and private organizations that work together to protect, preserve, and restore our Nation's coasts.

6. END USERS OR BENEFICIARIES OF PROGRAM:

- o Coastal communities – the Habitat Program prioritizes needs; collects and integrates observations; provides data and predictions to the public, researchers, and decision-makers; provides technical guidance, recommendations, training, workshops, and tools for habitat protection and restoration, including socio-economic and GIS mapping tools; fills leadership roles in habitat protection and restoration on councils, initiatives and national research centers; evaluates restoration techniques and develops restoration tools and methodologies; prioritizes needs; and uses expertise to support groups and build their capacity. The Program also develops case-specific settlement and restoration plans for injured resources and secures appropriate compensation from those responsible through cooperative negotiated settlements.
- o Commercial and recreational fishing industry – the Habitat Program advances the long-term sustainability and economic well-being of commercial and recreational fisheries by identifying, describing, protecting and restoring habitats necessary to support and sustain the Nation's trust resources, and reducing the amount of derelict fishing gear in the marine environment.
- o Federal, state, and local government agencies – the Habitat Program provides guidance, recommendations, solutions, tools, and financial assistance to avoid, minimize and mitigate impacts to or restore habitats that support coastal, marine, or Great Lakes resources; restores Louisiana salt marsh in cooperation with other federal agencies; develops projects as compensation for natural resource damage actions or cooperative settlements; engages

in cooperative agreements, grants, and contracts with state and local agencies.

- Fishery Management Councils and Interstate Fish Commissions – the Habitat Program undertakes assessments and habitat analyses to characterize habitat and develop predictive models; describes and identifies habitat necessary to support and sustain the Nation's resources; analyzes threats to habitats and prioritizes areas for protection and restoration; and identifies and refines essential fish habitat designations.
- General public – the Habitat Program provides opportunities for involvement in the decision-making process for damage assessments and settlements, facilitates and funds hand-on prevention and restoration; and generates and distributes information on the ecological and socioeconomic importance of coastal, marine and Great Lakes habitats. The Habitat program improves environmental literacy through environmental and stewardship education (e.g., experiential learning opportunities), as well as community and general outreach. The program also protects and restores habitat and resources for economic, recreational and other beneficial uses by the general public.
- Native and tribal groups – the Habitat Program provides information, analytical tools and technical expertise to native and tribal groups, facilitates and funds on-the-ground restoration projects driven by the groups' defined needs and priorities, and promotes long-term stewardship of natural resources. The program's habitat protection and restoration activities contribute to conservation of resources that are economically, socially and culturally significant to tribes.
- Resource managers – the Habitat Program improves understanding of habitat function and characteristics that serve as indicators of ecosystem health and shares information on these topics; analyzes monitoring results and evaluates restoration techniques; develops restoration tools and methodologies; develops prioritization to guide project planning and implementation of future restoration projects; identifies, predicts and prevents species invasions, including through the implementation of pathway interdiction methods, and controls, eradicates and mitigates the impacts of invasive species.
- Academia – the Habitat Program supports academic research through cooperative agreements, grants, and contracts; applies research findings to all habitat activities; and partners with colleges to inspire young professionals to pursue careers in natural resources.
- Regional planning groups – the program provides funding assistance, technical guidance, information and data for regional efforts to implement ecosystem-based approaches to management. Groups such as the Southeast Aquatic Resources Partnership (SARP), the Gulf of Mexico Alliance, and other regional collaborations are working with the Habitat Program to apply ecosystem-based approaches to fishery management and habitat conservation programs. Through these mechanisms, the Habitat Program promotes the locally-driven development of ecosystem-based approaches to resource stewardship in the Nation's nearshore, coastal, estuarine and aquatic habitats.

Appendix A

Secondary Requirement Drivers

- Anadromous Fish Conservation Act (AFCA): The Act provides that NOAA make grants for the conservation, development, and enhancement of anadromous fishery resources (those that migrate from salt to fresh water for spawning), including species in the Great Lakes and Lake Champlain.
- Endangered Species Act (ESA): The Act provides for the conservation of endangered or threatened species of fish and wildlife and their habitat. It also provides for the listing of species determined to be endangered or threatened by the Secretaries of the Interior or Commerce, with the National Marine Fisheries Service (NMFS), pursuant to delegated authority, responsible for most marine, estuarine and anadromous species. NMFS provides biological opinions to federal agencies, prosecutes violations and issues permits to states, local governments and private landowners for activities that may harm listed species. NOAA's habitat programs strive to protect and restore habitats that sustain listed species and to improve related ecosystems.
- National Fish and Wildlife Foundation Authorization Act (NFWF): The Act establishes the National Fish and Wildlife Foundation, a private, non-profit organization that fosters cooperative partnerships to conserve fish, wildlife, plants and the habitats on which they depend. A multi-faceted program has been assembled that builds public-private partnerships, including the NOAA/NFWF Habitat Restoration Partnership, to promote sustainable use of natural resources. The National Fish and Wildlife Foundation Reauthorization Act of 2006 reauthorized NFWF through 2010.
- Executive Order 13089 – Coral Reef Protection: The Order mandates that all Federal agencies ensure that any actions they authorize, fund, or carry out will not degrade the conditions of coral reef ecosystems. It further mandates that the Secretary of the Interior and the Secretary of Commerce, through the Administrator of the National Oceanic and Atmospheric Administration, shall co-chair the U.S. Coral Reef Task Force and that the Task Force shall, in cooperation with State, territory, commonwealth, local governments, and other organizations, coordinate a comprehensive program to map and monitor U.S. coral reefs, perform research, and develop, recommend and implement measures necessary to reduce and mitigate coral reef ecosystem degradation and to restore damaged coral reefs.
- Executive Order 13158 – Marine Protected Areas (MPAs): The Order requires the Department of Commerce to collaborate with other Federal agencies to: strengthen the management, protection, and conservation of existing marine protected areas and establish new or expanded MPAs; develop a scientifically based, comprehensive national system of MPAs representing diverse U.S. marine ecosystems, and the Nation's natural and cultural resources; and avoid causing harm to MPAs through federally conducted, approved, or funded activities.
- National Contingency Plan: The purpose of the Plan is to provide the organizational structure and procedures for preparing for and responding to discharges of oil and releases of hazardous substances, pollutants and contaminants. The Plan delegates trustee responsibility to the Secretary of Commerce for natural resources managed or controlled by the Department of Commerce and for natural resources managed or controlled by other federal agencies that are found in, under, or using waters navigable by deep draft vessels, tidally influenced waters, or waters of the contiguous zone, the exclusive economic zone, and the outer continental shelf.
- Reorganization Plan No. 4 of 1970: NOAA's authority and responsibilities regarding trust resources can be interpreted across many pieces of legislation and national policy. The original establishment of authority came with the formation of NOAA and is detailed, at

least in part, by the Reorganization Plan No. 4 of 1970. Section 1 of the Plan highlights the transfers of responsibility that occurred in the establishment of NOAA. Section 2 dictates specific requirements: "The Assistant Administrator for Fisheries shall be responsible for all matters related to living marine resources which may arise in connection with the conduct of the functions of the Administration."

- Marine Plastic Pollution Research and Control Act: Establishes the Marine Debris Coordinating Committee
- Driftnet Impact Monitoring, Assessment, Control Act of 1987, Pub L. 100-220, Title IV: The Driftnet Act directs the Secretary of the Interior, in cooperation with the Secretary of Commerce and the Secretary of State, to provide information on the impacts of large-scale driftnet fisheries on seabirds in the north Pacific Ocean. Requires Commerce to collect Statistical information on number of US marine resources killed, retrieved, discarded, or lost by foreign govt, driftnet fishing vessels which are fishing beyond EEZ of any nation.